

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Shaoher X. Pan, Xiao Yang, Dongmin Chen and Shoucheng Zhang
APPLICATION NO.: Unassigned
FILING DATE: Herewith
TITLE: Architecture of a Reflective Spatial Light Modulator
EXAMINER: Unknown
GROUP ART UNIT: Unknown
ATTY. DKT. NO.: 23340-08600

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 1/17, 2004

By: 

Jennifer R. Johnson, Reg. No. 50,784

MAIL STOP PATENT APPLICATION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

STATEMENT ESTABLISHING PROPRIETARY INTEREST BY PERSON

SIGNING ON BEHALF OF NONSIGNING INVENTOR

I, Dongmin Chen, residing at 15 Stone Road, Belmont, MA, 02478, am the person signing the declaration on the above-identified application on behalf of the nonsigning inventor, Shaoher X. Pan (hereinafter "Mr. Pan") and make this statement as to the facts establishing my proprietary interest.

1. As of the date I signed the declaration for this application, the proprietary interest in this invention:

☐ belonged to me.

☒ belonged to the following juristic person:

Miradia, Inc.
2880 Lakeside Drive, Suite 260
Santa Clara, CA 95054

and I am authorized to sign the statement on behalf of the juristic person, my title being Director of Microsystems Technology.

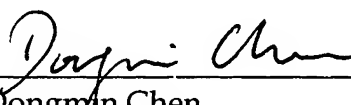
2. I establish the proprietary interest by

☐ attaching a copy of the assignment of this invention by the nonsigning inventor.

☒ attaching a copy of the agreement whereby the nonsigning inventor agreed to assign this invention.

3. In accordance with 37 C.F.R. § 3.73, the assignee hereby states that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take this action.

Dated: 119, 2004

By: 
Dongmin Chen
VP of Engineering and CFO
Miradia, Inc.
2880 Lakeside Drive, Suite 260
Santa Clara, CA 95054

PATENT

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Dated: 1/13, 2004

By: 

Jennifer R. Johnson, Reg. No. 50,784

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**STATEMENT OF FACTS IN SUPPORT OF FILING
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

Dear Sir:

This Statement of Facts is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of a declaration by the nonsigning inventor, Shaoher X. Pan (hereinafter "Dr. Pan"), for the above-identified patent application before deposit thereof in the U.S. Patent and Trademark Office.

This Statement of Facts is being made by an available person having first-hand knowledge of the facts recited therein.

I, Greg T. Sueoka, am a partner of Fenwick & West LLP, have a business address at 801 California Street, Mountain View, California, 94041, and hereby declare that:

1. I am a patent attorney licensed to practice before the U.S. Patent and Trademark Office (Reg. No. 33,800).
2. I am an attorney of record in the prosecution of the above-referenced patent application for Miradia, Inc., (hereinafter "Miradia"), a Delaware corporation, having a place of business at 2880 Lakeside Drive, Suite 260, Santa Clara, CA 95054. Miradia is entitled to all rights, title, and interest in involving the above-referenced patent application.
3. On December 10, 2003, the articles of incorporation of XHP Microsystems, Inc. (hereinafter "XHP") were amended to change the name of the corporation to "Miradia, Inc." This name change was approved by a shareholder vote. A copy of the amendment is included herewith and identified as EXHIBIT A.
4. At the request of my client, Miradia, Inc., herewith I am filing a utility patent application entitled "Architecture of a Reflective Spatial Light Modulator," attorney docket number 23340-08600 (hereinafter "the Application"), which is a continuation of and claims the priority benefit of U.S. Patent Application Serial No. 10/378,058 of "Architecture of a Reflective Spatial Light Modulator," filed February 27, 2003, which patent application claims priority from provisional U.S. Patent Application Serial No. 60/390,389, for "Reflective Spatial Light Modulator," filed June 19, 2002.

5. The Application names four inventors: Shaoher X. Pan (hereinafter "Dr. Pan"), Xiao Yang, Dongmin Chen, and Shoucheng Zhang.

6. Michelle Lee (hereinafter "Ms. Lee"), a patent attorney and partner of Fenwick & West at the time, had discussions with Xiao Yang, an employee of Miradia and co-inventor of the subject matter of the Application. During those discussions, Xiao Yang revealed inventorship of the subject matter of the Application with corrective intent. From those discussions, it is my belief that Dr. Pan is a joint inventor of the subject matter claimed in the above-referenced patent Application. Additionally, it is my belief that Xiao Yang, Dongmin Chen, and Shoucheng Zhang are also joint inventors of the subject matter claimed in the above-referenced patent applications, and all have executed corresponding declarations.

7. It is my information and belief that Dr. Pan was employed at XHP when he co-invented the subject matter claimed in the above-referenced patent application, and was obligated to assign the claimed subject matter of the above-referenced patent application to XHP.

8. On November 21, 2002, the first day of Dr. Pan's employment with XHP, Dr. Pan executed an Employee Invention Assignment and Confidentiality Agreement with XHP Microsystems, Inc. According to this agreement, Dr. Pan is obligated to assign all inventions during his employment to XHP Microsystems, Inc. A copy of this agreement is included herewith and identified as EXHIBIT B.

9. As of August 22, 2003, Dr. Pan's employment with XHP terminated.

10. It is my belief that Dr. Pan's last known address is 1133 Kelez Drive, San Jose, California, 95120, and last known telephone number is (408) 268-0702.

11. It is my belief that Dr. Pan is represented by legal counsel, specifically Frederick D. Baron (hereinafter "Mr. Baron") of Cooley Godward LLP, having an address of Five Palo Alto Square, 3000 El Camino Real, Palo Alto, California, 94306.

12. On November 12, 2003, Ms. Lee sent a package (hereinafter "the Package") via Federal Express to Shaoher X. Pan, 1133 Kelez Drive, San Jose, California, 95120. The Package contained copies of the Application, a declaration for the applicant, an assignment for the applicant, an oath and assignment for a corresponding Taiwanese application, and a cover letter asking Dr. Pan to sign and return the documents, and another pre-paid and pre-addressed return Federal Express envelope. The cover letter accompanying the Package requested return of the signed documents by November 19, 2003 and indicated that if we did not receive the documents in response from Dr. Pan by November 19, 2003, that we would consider him unable or unwilling to sign the enclosed documents and would proceed accordingly. The Package was delivered on November 13, 2003. Copies of the cover letter accompanying the Package and a Federal Express Track Shipment Detail document showing that the Package was delivered are attached as EXHIBIT C. Dr. Pan did not return any executed documents or the originals unsigned.

13. On November 19, 2003, Ms. Lee received an e-mail from Dr. Pan indicating that he believed himself to be the sole inventor of the information in the above-referenced application. A copy of that e-mail is attached as EXHIBIT D.

14. On November 25, 2003, Darryl Woo, a partner of Fenwick & West, received a letter from Mr. Baron (hereinafter "Baron Letter") in reference to Dr. Pan, at which time I became aware of representation of Dr. Pan by Mr. Baron. In the Baron Letter, Mr. Baron referenced the aforementioned letter from Ms. Lee and returned the Package Ms. Lee had sent Dr. Pan dated November 12, 2003, with the Application, declaration for the applicant, assignment for the applicant, and oath and assignment for a corresponding Taiwanese application documents unsigned. A copy of the Baron Letter is attached as EXHIBIT E.

15. On December 18, 2003, I sent a letter to Mr. Baron (hereinafter "Sueoka Letter"). The Sueoka Letter referenced the return of the Package documents unsigned and stated that our assumption from that purposeful act and the Baron Letter was that Dr. Pan was refusing to sign them. A copy of the Sueoka Letter is attached as EXHIBIT F.

16. As of January 9, 2004, we have not received any communication from Mr. Baron on behalf of Dr. Pan in response to the Sueoka Letter. To my knowledge, Dr. Pan has not executed a declaration corresponding to the claimed subject matter for the Application submitted herewith and refuses to sign any such declaration.

I hereby declare that all statements made herein to the best of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,

under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Dated:

Jan 13, 2004

By:

Greg T. Sueoka

Greg T. Sueoka, Reg. No.: 33,800
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